



## AGENDA REPORT

**Meeting Date:** October 18, 2010  
**Item Number:** E-6  
**To:** Honorable Mayor & City Council  
**From:** City Attorney  
**Subject:** An Ordinance of the City of Beverly Hills Establishing Disclosure Requirements for Ballot Measure Committees and Amending the Beverly Hills Municipal Code  
**Attachments:** 1. Ordinance

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### **RECOMMENDATION**

If the City Council determines that the proposed ordinance implements the Council's direction from the September 20, 2010 study session, then the City Attorney's Office recommends introduction of the ordinance.

### **INTRODUCTION**

The City of Beverly Hills Municipal Code currently includes campaign contribution limits, voluntary campaign expenditure limits and certain disclosure requirements. These measures are designed to eliminate the appearance of corruption that may arise from large campaign contributions to candidates and to promote informed actions by the City's voters.

At its study session of September 20, the City Council considered whether to adopt additional disclosure requirements for local ballot measure committees and advertisements funded by those committees. At the conclusion of its discussion the City Council directed the City Attorney's office to prepare an ordinance establishing such requirements.

### **DISCUSSION**

At its study session of September 20, the City Council directed the City Attorney's Office to prepare an ordinance that would establish certain disclosure requirements for ballot measure committees and for advertisements placed by those committees. Pursuant to that direction, the attached ordinance includes the following provisions:

1. Ballot committees shall be required to report contributions and expenditures more frequently than is otherwise required by State law. In addition to filing reports for periods ending 45 and 17 days before an election, ballot measure committees will also need to file reports for periods ending 30 and 10 days before an election. Furthermore, any contributions of more than one thousand dollars that are made less than 10 days before an election must be reported to the City Clerk on the first business day following the receipt of the contribution.

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The City Clerk will maintain a publicly available on-line database where these reports may be viewed.

2. Any advertisement placed by a ballot measure committee must identify those persons or entities that have contributed more than ten thousand dollars to the committee. (State law requires the same type of identification of persons or entities that have contributed more than fifty thousand dollars to a ballot measure committee.) If there are more than two contributors who have made contributions in excess of ten thousand dollars, then the top two contributors must be identified.
3. The advertisement must also refer readers (or viewers or listeners) to the City's website for more information regarding campaign funding sources.
4. Finally, every advertisement must contain the official title of the ballot measure.

Each of these measures is designed to promote more informed voting by the City's residents.

As an ordinance related to an election, this ordinance will take effect immediately upon its adoption. If the City Council introduces the ordinance at its October 18 meeting, then the ordinance will be scheduled for adoption at the City Council meeting of November 4, 2010.

#### **FISCAL IMPACT**

This ordinance will require that additional time be devoted by the City Clerk's office to the administration of the election process.

  
Laurence S. Wiener, City Attorney

# **Attachment 1**

ORDINANCE NO. 10-

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
ESTABLISHING DISCLOSURE REQUIREMENTS FOR  
BALLOT MEASURE COMMITTEES AND AMENDING  
THE BEVERLY HILLS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY  
ORDAINS AS FOLLOWS:

Section 1. Subsection (C) of Section 1-8-1 of Chapter 8 of Title 1 of the  
Beverly Hills Municipal Code is hereby amended to read as follows:

“To promote informed actions by the electors of the city by requiring the full and  
truthful disclosure of contributions and expenditures in election campaigns and city ballot  
measure campaigns;”

Section 2. Section 1-8-2 of Chapter 8 of Title 1 of the Beverly Hills  
Municipal Code is hereby amended to add new definitions in alphabetical order as  
follows:

“ADVERTISEMENT: Any general or public communication, including printed,  
mailed, telephonic, automated, and electronic communications, which is authorized and  
paid for by a ballot measure committee for the purpose of supporting or opposing a city  
ballot measure. The term “advertisement” does not include personal communications  
between individuals, such as personal telephone calls made by an individual to another  
individual, one-to-one conversations, debates or other informational presentations by an  
individual, but shall include, without limitation, automated telephone calls to voters.

CITY BALLOT MEASURE: Any initiative, referendum or city-council  
sponsored measure that is submitted solely to the voters of the City of Beverly Hills.

BALLOT MEASURE COMMITTEE: Any person or combination of persons  
who directly or indirectly does any of the following in connection with supporting or  
opposing a city ballot measure:

- A. Receives contributions totaling \$1000 or more in a calendar year;
- B. Makes independent expenditures totaling \$ or more in a calendar year; or
- C. Qualifies, or has previously qualified, as a committee under applicable State law.

A person or combination of persons that becomes a ballot measure committee shall retain its status as a ballot measure committee until such time as that status is terminated pursuant to Government Code Section 84214 or any successor statute.

QUALIFYING PAYMENT. Any payment, binding promise to pay, contribution, expenditure or independent expenditure of \$250 or more made by a ballot measure committee for an advertisement to support or oppose a city ballot measure. All payments to the same payee in a calendar year shall be aggregated for the purpose of determining the \$250 threshold. ”

Section 3. Former Sections 1-8-5 and 1-8-6 of Chapter 8 of Article 1 of the Beverly Hills Municipal Code shall be renumbered as Sections 1-8-6 and 1-8-7, respectively.

Section 4. Section 1-8-5 is hereby added to Chapter 8 of Title 1 of the Beverly Hills Municipal Code to read as follows:

**“1-8-5: DISCLOSURE REQUIREMENTS FOR BALLOT MEASURE COMMITTEES**

- A. In addition to the requirements of this Chapter, every ballot measure committee shall comply with the registration and reporting requirements set forth in the Political Reform Act applicable to committees. In addition to other reports required by law, any ballot measure committee that makes a qualifying payment shall, within seventy-two (72) hours of making the first such qualifying payment, file in the office of the city clerk a letter containing the name and address of the committee, the full street address of the committee, the FPPC/Secretary of State identification number of the committee, the name of the treasurer of the committee, and the identifying letter or number of the city ballot measure(s) supported or opposed by such qualifying payment. It shall be unlawful for any person or committee to knowingly file or publish any name or street address for a committee that is not the complete and accurate name and/or street address of the committee.

- B. In addition to any preelection statement required by the Political Reform Act, every ballot measure committee shall file a preelection statement for the following periods at the following times:
- a. For the period ending 30 days before the election, the statement shall be filed not later than 25 days before the election.
  - b. For the period ending 10 days before the election, the statement shall be filed no later than 5 days before the election.

Any contribution from any person of more than one thousand dollars, individually or in the aggregate, that is made less than 10 days before the election shall be reported to the City Clerk on the next business day following receipt of the contribution.

- C. Every advertisement in support of or opposition to a city ballot measure placed by a ballot measure committee shall include a clearly visible or audible disclosure statement containing the actual legal name of any person(s) whose cumulative contributions, whether cash or in-kind, to the ballot measure committee total ten thousand dollars (\$10,000) or more in the twelve (12) calendar months immediately preceding the first qualifying payment for that advertisement. If there are more than two donors that have contributed ten thousand dollars (\$ 10,000) or more in the twelve (12) calendar months immediately preceding the first qualifying payment for that advertisement, the ballot measure committee shall disclose in any advertisements the highest and second highest in that order. In the event that more than two donors meet this disclosure threshold at identical contribution levels, the highest and second highest shall be selected according to chronological sequence.
- D. Every advertisement in support of or opposition to a city ballot measure shall include a statement indicating that additional information about contributions to the ballot measure committee paying for the advertisement is available at [www.beverlyhills.org](http://www.beverlyhills.org). The City Clerk shall maintain an on-line, publicly available database of all reports submitted by ballot measure committees to the City Clerk.
- E. The disclosure statement required to be included in an advertisement pursuant to this Section shall be shown legibly and in a conspicuous manner, in no less than 14-point type in printed, video, or email format, and for at least one-half of the time

duration of the advertisement if the advertisement consists of video material. If the advertisement is audio, telephonic or transmitted in some other audible form only, the information shall be spoken so as to be clearly audible and understood by the intended public and otherwise appropriately conveyed for the hearing impaired. Such disclosure statement required to be included in an advertisement by this Section shall convey the following information in substantially the following form:

“This communication is presented by [name of committee] with major funding provided by [legal name of donors required to be identified pursuant to subsection C]. More current information regarding the sources of funding for this election campaign is available at [www.beverlyhills.org](http://www.beverlyhills.org).”

- F. In addition to the other requirements of this section, every advertisement in support of, or opposition to, one or more city ballot measures shall contain the official title of the city ballot measure, as provided by the City Attorney, in a clearly audible or legible form.”

Section 5. Former Section 1-8-5, renumbered by this ordinance as Section 1-8-6, (“Record Keeping and Audits”) of Chapter 8 of Title 1 of the Beverly Hills Municipal Code is hereby amended to read as follows:

“A. Record Keeping: It shall be the duty of each candidate, treasurer, and principal officer of any committee or ballot measure committee to maintain such detailed accounts, records, bills, copies of checks, and receipts that are necessary to prepare the campaign statements required by this chapter and the Political Reform Act. Such records shall be maintained and retained by the filer pursuant to the provisions of the Political Reform Act and regulations promulgated by the Fair Political Practices Commission. Persons maintaining such records shall, upon not less than seven (7) days’ written notice, make such records available for review and/or audit by a designated representative of the City of Beverly Hills.

B. Audits: For the specific purpose of enforcing the provisions of this chapter only, the City Clerk or the City Attorney, or their designated representatives, may investigate and audit the records and reports of any candidate, candidate’s controlled committee, and any other committee or ballot measure committee.”

Section 6. Subsections (A) and (B) of former Section 1-8-6, renumbered by this ordinance as Section 1-8-7, (“Remedies”) of Chapter 8 of Title 1 of the Beverly Hills Municipal Code is hereby amended to read as follows:

“A. Liability for Violations: In the case of any violations of this chapter by a committee, the treasurer and any principal officers or, in the case of a controlled committee, the candidate, may be liable for violations as provided herein. In the case of any violations of this chapter by a ballot measure committee, the treasurer, any principal officers, and any person primarily responsible for the preparation of any advertisement may be liable for violations as provided herein. If two (2) or more persons are liable for any violation, they shall be jointly and severally liable.

B. Misdemeanor Violations and Fines: Any person or candidate for elective office who knowingly or willfully violates any provision of section 1-8-3, 1-8-5 or 1-8-6 of this chapter is guilty of a misdemeanor and upon conviction may be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment. Allegations that such violations have occurred may, in the discretion of the city attorney, be referred to the Los Angeles County district attorney for investigation and prosecution.”

Section 7. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall attest and certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk’s certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 8. Pursuant to California Government Code Section 81009.5, the City Clerk shall cause a copy of this ordinance to be forwarded to the California Fair Political Practices Commission.

Section 9. Effective Date. The City Council hereby declares that this Ordinance relates to an election and shall take effect immediately upon its adoption.

Adopted:  
Effective:

PASSED, APPROVED and ADOPTED this \_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
JIMMY DELSHAD  
Mayor of the City of  
Beverly Hills, California

ATTEST:

\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

  
LAURENCE S. WIENER

City Attorney